

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.25474 OF 2002

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DATED: 24-04-2006

BETWEEN

Puroshotham Vinayak Rao Koratkar,

S/o. Vinayak Rao Koratkar,

R/o. H.No.5-2-1070,

Mozamjahi Market,

Hyderabad

...PETITIONER

AND

The Assistant City Planner,

Municipal Corporation of Hyderabad,

Abids Circle, Abids,

MCH Complex, Hyderabad

and another.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the first respondent dated 16.12.2002 in orally threatening to demolish his premises No.5-2-1 to 29 & 5-2-1071 situated at Mozamjahi Market, Hyderabad as illegal and arbitrary and violative of Sections

146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

Learned counsel for the petitioner submits that petitioner is the absolute owner of the aforementioned premises by virtue of inheritance of the estate of Late Sri Vinayak Rao Vidyalkar.

There are several business establishments and houses in the petitioner's building complex and the tenants are completely dependant on the trades run by them. While so, the respondent corporation has taken up a massive road-widening programme from Mozamjahi Market to Putli Bowli Road with a proposal to widen the road to 20 feet on both sides. He further submits that the length of the shops on both the sides of the road is 10.20 feet and in the proposed road-widening all the shops would be demolished. He further submits that the officials of the respondent corporation visited the premises of the petitioner on 16.12.2002 and painted the widening extent of 19 feet on his premises and directed him to vacate the said premises, as the same was required for road widening.

The learned counsel further submits that the respondents without issuing any notice, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, are threatening to demolish the premises of the petitioner, which action is utter violation of principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of the private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case, the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of. No costs.

V. ESWARAIAH, J

April 24, 2006

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